

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

Velecio Jamel Smith,	)	
	)	
Petitioner,	)	Civil Action No. 9:16-1825-TMC
	)	
v.	)	<b>ORDER</b>
	)	
Warden Mansukhani,	)	
	)	
Respondent.	)	
	)	

Petitioner Velecio Jamel Smith, a federal inmate proceeding *pro se*, filed this action seeking habeas corpus relief pursuant to 28 U.S.C. § 2241.<sup>1</sup> Respondent filed a motion for summary judgment. (ECF No. 13). Rather than file a response to the summary judgment motion, Plaintiff has filed a motion to dismiss. (ECF No. 21). Before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that Petitioner’s motion to dismiss (ECF No. 21) be granted, that Respondent’s motion to dismiss and/or for summary judgment (ECF No. 13) be denied, and this action be dismissed without prejudice. (ECF No. 22). The parties were advised of their right to file objections to the Report. (ECF No. 22 at 4). No objections have been filed to the Report, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that

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<sup>1</sup> In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02, DSC, this matter was initially referred to a magistrate judge.

there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report and the record in this case, the court adopts the magistrate judge's Report (ECF No. 22) and incorporates it herein. It is therefore **ORDERED** that Petitioner’s motion to dismiss without prejudice (ECF No. 21) is **GRANTED**, and this action is **DISMISSED** without prejudice. It is further **ORDERED** that Respondent’s motion to dismiss or, in the alternative, for summary judgment (ECF No. 13) is **DENIED**, without prejudice.

**IT IS SO ORDERED.**

s/Timothy M. Cain  
Timothy M. Cain  
United States District Judge

Anderson, South Carolina  
November 29, 2016